

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, September 2, 1997

DIVISION ONE

**A079814 Beretta U.S.A. Corp. v. Superior Court, County Of Alameda;
Griffin Dix, et al., R.P.I.**

By The Court: The petition for writ of mandate and request for stay are denied.
Swager, Acting P.J.

DIVISION TWO

A073943 The People v. Richard A. Catalano.

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A074739 The People v. Cristobal Castanon.

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A074740 The People v. Calvin W. Peterson.

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A074765 The People v. Joseph White.

A077230 In re Joseph White, on Habeas Corpus.

For the foregoing reasons, the appeal is dismissed and the petition for writ of habeas corpus is denied. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Tuesday, September 2, 1997 (continued)

DIVISION THREE

A072334 The People v. Jerry Wayne Allen.

By The Court: The petition for rehearing is denied. Phelan, P.J.

A075636/A075820 The People v. Clifford Wayne Campbell.

The judgment is reversed and the case remanded for resentencing only. Phelan, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A074370 Roman Catholic Archbishop Of San Francisco. v. City Of San Mateo.

The judgment is reversed. The City shall recover its costs. Poche, J. We concur: Anderson, P.J., Reardon, J. (Not for Publication.)

A075616 Roman Catholic Archbishop Of San Francisco.

The order is reversed. The parties shall bear their respective costs of appeal. Poche, J. We concur: Anderson, P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A076186 The People v. Albert E. Lawson.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

A074319 The People v. Miguel Cornejo Maldonado.

The judgment is reversed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, September 3, 1997

DIVISION TWO

A072944 In re the Marriage of Betty L. Leadford and John L. Leadford.

The order of dismissal is reversed. The parties are to bear their own costs on appeal. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A078170 The People v. Stephen Nelson.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A079077 Susan L. Fiddaman v. The Superior Court Of San Francisco County; Textainer Group Holdings Limited, et al., R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Haerle, Acting P.J.

A079153 Boy Scouts Of America v. The Superior Court Of Alameda County; Mario R. Juarez, R.P.I.

By The Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

A079184 Stella H. v. Marin County Superior Court; Department Of Social Services, et al., R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; Kowis v. Howard (1992) 3 Cal.4th 888 [precluding further challenged to these orders by petitioner in any subsequent appeal].) Since the permanency planning hearing is presently scheduled for September 16, 1997, our decision is immediately final as to this court. Haerle, J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Wednesday, September 3, 1997 (continued)

DIVISION FOUR

A073694 The People v. Ludrate Edward Burton.

Appellant's robbery conviction is reversed, along with the robbery-murder special circumstance finding. Because the jury returned specific, independent verdicts on the burglary charge and burglary-murder special circumstance allegation which are supported by substantial evidence, reversal of the robbery-murder special circumstance finding has no impact on the burglary conviction or the burglary-murder special circumstance finding. (People v. Guiton (1993) 4 Cal.4th 1116, 1126-1131.) Thus, the remainder of the judgment is affirmed. Anderson, P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

A075253 The People v. David Winston Gainey.

The judgment of conviction is reversed and the cause is remanded to the trial court with directions to reconsider defendant's motion to strike. If that motion is granted, the court shall resentence defendant accordingly. If the motion is denied, the court shall reinstate the judgment. (Cf. People v. Collins (1986) 42 Cal.3d 378, 394-395.) Poche, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

A075764 Shari A. Pica et al. v. Hallgrimson, McNichols, McCann & Inderbitzen.

The judgment is affirmed. Anderson, P.J. We concur: Poche, J., Reardon, J. (Not for Publication.)

A078380 The People v. Harold Danny Leaks.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION ONE

Wednesday, September 3, 1997

Court convened at 9:00 a.m. in its Courtroom, at Marathon Plaza, 303
Second Street, 4th Floor, San Francisco, California.

Present: Strankman,, P.J. Stein, J. and Swager, J.
J. Bagoye, Deputy Clerk

- A073864 People,
 v.
 Rodney Broden.
Cause called and argued by Neil Rosenbaum for appellant and Matthew
Boyle, Deputy Attorney General for respondent. Cause ordered submitted.
- A072987 People,
 v.
 Gilbert Cordova, et al
Cause called and argued by Mark Goldrosen for appellant Ortiz and
Christopher Wei, Deputy Attorney General for respondent. Cause ordered
submitted.
- A075239 Patricia Buser,
 v.
 Douglas Buser.
Cause called and argued by George Pfeiffer for appellant and Richard
Sherman for respondent. Cause ordered submitted.
- A075382 George Kendall,
 v.
 Fairfield Daily Republic, et al.
Cause called and argued by Martha Stringer for appellant and Matthew
Lucas and Christine Carringer for respondents. Cause ordered submitted.

Wednesday, September 3, 1997 (continued)

At this point, Justice Stein leaves the bench and Justice Dossee joins the bench for the remainder of the calendar.

A074578 People,
 v.
 Thomas Young.
Cause called and argued by Paula Rudman for appellant and Aileen Bunny, Deputy Attorney General for respondent. Cause ordered submitted.

A075808 Armando Montenegro, et al.,
 v.
 John B. Fraga, et al.
Cause called and argued by Jerry Williams and Jerry Abbott for appellants and James Beniot for respondent. Cause ordered submitted.

Court recessed until 2:00 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION ONE

Wednesday, September 3, 1997

Court convened at 2:00 p.m. in its Courtroom, at Marathon Plaza, 303
Second Street, 4th Floor, San Francisco, California
Present: Strankman, P.J., Stein, J. and Dossee, J.
N. Millner, Deputy Clerk

A075408 Department of Social Services,
v.
Deanna R.
Cause called and argued by Elaine Affronti for appellant and Charles
Wood, Deputy County Counsel for respondent. Cause ordered submitted.

A074760 Ray Reece, et al.,
v.
Regents of the University of California, et al.
Cause called and argued by Osha Newman for appellant and Jacques
LeBoeuf for respondent. Cause ordered submitted.

A075913 Charlotte Hamann,
v.
Laurence Moll, et al.
Cause called and argued by Charlotte Hamann, as appellant in pro per and
Lorraine Walsh for respondent. Cause ordered submitted.

At this point, Presiding Justice Strankman leaves the bench and Justice
Swager joins the bench for the remainder of the calendar.

A075492 Peninsula Yogurt,
v.
280 Metro Associates.
Cause called and argued by Timothy McCollum for appellant and James
Treppa for respondent. Cause ordered submitted.

Wednesday, September 3, 1997 (continued)

A075271 Marianne Ades,
 v.
 Audrey Bell, et al.
Cause called and argued by Nancy Field for appellant and no appearance
for respondent. Cause ordered submitted.

A076804 Victoria Bradshaw,
 v.
 National Medical Care, Inc., et al.
Cause called and argued by Thomas Kerrigan for appellant and David
Otsuka for respondent. Cause ordered submitted.

Oral argument having been deemed waived, the following case is ordered
submitted.

A077073 KPFF v. California Union Insurance Company

Court Adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, September 4, 1997

DIVISION ONE

A075574 The People v. Vernon Smith.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Dossee, J.
(Not for Publication.)

A075901 Ricardo Hernandez, as Conservator, etc. v. Jerome Field.

The judgment is affirmed. Costs on appeal are awarded to respondent. Swager, J.
We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A076116 Claude Lambert, et al v. City And County Of San Francisco et al.

By the Court: The motion filed July 30, 1997 for permission to file a second
supplemental brief is denied. Strankman, P.J.

**A070881 Cal Pak Delivery, Inc.; Michael N. Khourie v. United Parcel
Service, Inc.**

Respondent UPS's request for judicial notice is granted. (Evid, Code, § § 452,
459.) The issues on which this cause of action and appeal were based having become
moot as a result of PUC Decision 96-12-090, this appeal is hereby dismissed, and the trial
court's dismissal is affirmed. Each party is to bear its own costs on appeal. Kline, P.J.
We concur: Haerle, J., Lambden, J. (Not for Publication.)

A074230 Bruce Lamell, et al. v. Julie Kingsley, et al.

By The Court: The petition for rehearing is denied. Kline, P.J.

A079821 In re Don Clark Wilson, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Thursday, September 4, 1997 (continued)

A071123 John Soteriou and Sharon Soteriou v. ACandS, Inc.

The order granting a new trial is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A071977 The People v. Andrew B. Davi.

The cause is remanded for modification of the abstract of judgment to impose two consecutive terms of life in prison with the possibility of parole on count two, to be served consecutively to the two consecutive terms of 25 years to life imposed on count one. In all other respects, the judgment is affirmed. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A076877 The People v. Francisco Borjon Perez.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

DIVISION FIVE

A075990 The People v. George Ben Putney.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, September 5, 1997

DIVISION ONE

A079231 Brenda Swaleh v. K. Ymasaki, et al.

By The Court: The motion filed August 13, 1997 to dismiss the above-captioned appeal is denied. Strankman, P.J.

DIVISION TWO

A073484 The People v. Sudi Pebbles Trippet.

By The Court: It is ordered that the opinion filed herein on August 15, 1997, be modified in the following particulars: (See order) These modifications do not effect a change in the judgment. The petitions for rehearing are denied. Kline, P.J. (Certified for Publication.)

**A075519 Mark Notz et al. v. Ticketmaster-Southern California, Inc., et al;
Francis O. Scarpulla et al.**

The order is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Friday, September 5, 1997 (continued)

A077310 Frank M. Hampton v. Workers' Compensation Appeals Board and General Motors Corporation.

The parties have thoroughly briefed the jurisdictional issues; thus certification of a record and oral argument are unnecessary. (Cf. *Alexander v. Superior Court* (1993) 5 Cal.4th 1218, 1222-1223.) Accordingly, let a writ of review issue returnable forthwith. The "Opinion and Order Dismissing Reconsideration" filed on January 2, 1997, is annulled, as well as the subsequent order filed by the Appeals Board on March 3, 1997, denying applicant's request to set aside the dismissal. The cause is remanded to the Appeals Board for a determination on the merits of applicant's petition for reconsideration filed on November 14, 1996. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A079600 Carla Roberts v. The Superior Court Of Alameda County; Dinesh Sawhney, et al., R.P.I.

By The Court: Pending determination of the petition on file herein, and subject to further order of this court, the proceedings in *Carla Roberts v. Dinesh Sawhney, et al.*, Alameda County Superior Court Case No. 770541-2, are temporarily stayed. Kline, P.J.

A079834 Wei Hau Accessories Company, et al. v. The Superior Court Of San Francisco County; Paul Solon, R.P.I.

By The Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

DIVISION THREE

A074630 Javon Rahmaan, a Minor, etc. v. Union Pacific Railroad Company et al.

We reverse the judgment. We remand for further proceedings only as to plaintiff's claim that Gates was negligent in his application of the emergency brakes. Defendants were entitled to summary adjudication on all other issues. The parties shall bear their own costs on appeal. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

Friday, September 5, 1997 (continued)

A076465 In re Jamar L., a Minor.

The judgment is affirmed. The juvenile court is ordered to issue a corrected commitment order accurately listing the maximum period of confinement as 19 years and 10 months. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

A075869 The People v. Michael Dee Johnson.

The convictions are affirmed. The People are granted 60 days from the date of this opinion becomes final to move for a resentencing hearing. If the People so move, the judgment is reversed and remanded to the superior court for a resentencing hearing at which appellant will be personally present and represented by an attorney. A sentence of up to 11 years may be imposed at such hearing. If the People do not so move, the sentence is reduced to 10 years. Reardon, J. We concur: Anderson, P.J., Hanlon, J. (Not for Publication.)

A074984 In re Samantha F. et al., a Minor.

The juvenile court orders are affirmed. The request for a stay is denied as moot. Reardon, J. We concur: Anderson, P.J., Poche, J. (Not for Publication.)

A075893 In re Melody S., a Minor.

The judgment is affirmed. Anderson, P.J. We concur Poche, J., Hanlon, J. (Not for Publication.)

A079749 In re Gennaro W. Gaglione, On Habeas Corpus.

By The Court: The above-entitled petition for writ of habeas corpus is ordered transferred from Division Four to Division One. The prior related appeal having been previously assigned to Division One, requires by this court's Internal Operating Practices and Procedures, Section 21(b), to transfer this case to Division One. This order is made pursuant to Rule 20(b)(1) of the California Rules of Court. Strankman, A.P.J.

Friday, September 5, 1997 (continued)

DIVISION FIVE

A075627 The People v. Kenneth Young.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

A076519 Alice Haston v. Gene L. Van Mechelen et al.

The judgment is affirmed. Respondents' motion for sanctions is denied. Costs to respondents. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, September 8, 1997

DIVISION ONE

A075408 In re Kary R., a Minor.

The order appealed from is affirmed. Dossee, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A075808 Armando Montenegro et al.

The order granting a new trial is affirmed. Dossee, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A074723 Karl Schoen et al. v. California Department Of Forestry & Fire Protection et al; Louisiana-Pacific Corporation, R.P.I.

By The Court: The petition for rehearing is granted. Kline, P.J.

DIVISION THREE

A075155 The People v. Larry Darnell Cook.

A078857 In re Larry Darnell Cook, on Habeas Corpus.

The judgment is affirmed, and the petition for writ of habeas corpus is denied. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Monday, September 8, 1997 (continued)

A077687 In re Maria Soto, on Habeas Corpus.

Petitioner's plea and conviction are vacated and the matter is remanded to the superior court for further proceedings. We are required by Business and Professions Code section 6086.7 to report our decision to the State Bar of California for investigation of the appropriateness of initiating disciplinary action against attorney Rudy Guzzetta. (People v. Singer, supra, 226 Cal.App.3d at p. 48.) Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

A075581 The People v. Certain Real Property Situated In Mendocino County: Assessor's Parcel Number 056-500-09; Rafael Prieto Tarradas.

The judgment is affirmed. Hanlon, J. We concur: Anderson, P.J., Poche, J. (Not for Publication.)

A076074 The People v. Wade Richard Kelly.

The judgment is affirmed. Anderson, P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

A076595 Larry M. Reynolds et al v. Texaco, Inc., et al.

We affirm the judgment in its entirety. Anderson, P.J. We concur: Poche, J., Reardon, J. (Not for Publication.)

DIVISION FIVE

A078298 The People v. Jeffrey Shawn Henderson.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, September 9, 1997

DIVISION ONE

A076463 In re Marquette E., a Minor.

By The Court: The petition for rehearing is denied. Strankman, P.J.

DIVISION TWO

A074118 David S. Greenblatt v. Consolidated Intercapital Corporation, et al.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A074783 The People v. Kelvin Cannon.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A077683 In re Nathan B., a Minor.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A079816 Rental Service Corporation v. The Superior Court Of Marin County; Figgie International, Inc., et al.

By The Court: The petition for writ of mandate is denied. Kline, P.J.

A079843 In re Alvin Peavey, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Tuesday, September 9, 1997 (continued)

DIVISION THREE

A077936 In re David B., a Minor.

By The Court: The request for publication of the opinion filed August 11, 1997, is denied. Phelan, P.J.

DIVISION FOUR

A072693 The Economic Empowerment Foundation v. Charles Quackenbush, as Insurance Commissioner, etc.; Farmers Insurance Group Of Companies, R.P.I.

The order of dismissal is affirmed with costs to respondents. Hanlon, J. We concur: Anderson, P.J., Poche, J. (Certified for Publication.)

A078317 The People v. Quentin Joseph Reid.

The order revoking probation and the judgment imposed are affirmed. Reardon, J. We concur: Poche, Acting P.J., Hanlon, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, September 10, 1997

DIVISION ONE

A074457 Sachiko Genger v. Robert Delsol et al.

The order filed July 1, 1996, is modified by striking the trial court's premature determination of the application of Probate Code section 21307. As so modified, the order is affirmed. The petition for rehearing is denied. Dossee, Acting P.J. (Certified for Publication.)

A075239 In re the Marriage of Patricia Buser and Douglas A. Buser.

The May 28, 1996 order modifying child support is affirmed. The parties shall bear their own costs and attorney fees on appeal. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A075753 Daniel Jason Starr v. Sutro Tower, Incorporated.

By The Court: Since this court's opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied. Pursuant to rule 978 (a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the subject opinion, and a copy of this order. Stein, Acting P.J.

DIVISION TWO

A079869 In re Steve T. Clay, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Wednesday, September 10, 1997 (continued)

A079873 Smith Barney Inc., et al. v. The Superior Court Of Contra Costa County; John Lee, et al.

By The Court: The petition for writ of mandate/stay is denied. Kline, P.J.

A079878 Edward A. Bent v. The Superior Court Of San Francisco County; Painewebber, Inc., It Al., R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

DIVISION THREE

A068408 Lmp Corporation et al v. Universal Manufacturing Corporation et al.

Order Modifying Opinion. The Court: It is ordered that the opinion filed herein on August 28, 1997, be modified in the following particulars: (See order) There is no change in the judgment. Phelan, P.J.

DIVISION FIVE

A075996 Aditya Mukerji v. Shorenstein Company.

The judgment is affirmed. Costs to respondent. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, September 11, 1997

DIVISION ONE

A075612 In re the Marriage of Stephen and Victoria Wolf.

By The Court: The cross-appellant having failed to file a brief after notice given under rule 17(a), California Rules of Court, the appeal is dismissed. Stein, Acting P.J.

A077008 In re Quyen H., a Minor.

The order of commitment is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A077794 The People v. Benedicto Gucuya.

By The Court: The appellant having failed to file a brief after notice given under rule 17(a), California Rules of Court, the appeal is dismissed. Stein, Acting P.J.

DIVISION THREE

A073878 The People v. Roger Hernandez.

By The Court: The request for publication of the opinion filed August 18, 1997, is denied. Phelan, P.J.

DIVISION FOUR

**IN THE MATTER OF THE ASSIGNMENT OF THE HONORABLE
JOANNE C. PARRILLI TO SIT AS A JUSTICE OF THIS COURT**

BY THE COURT: It is ordered that the assignment of the Honorable Joanne C. Parrilli, Associate Justice of the Court of Appeal, First Appellate District, Division Three, to sit as a justice in Division Four, be spread upon the minutes in full. Anderson, P.J.

Thursday, September 11, 1997 (continued)

A075577 The People v. Steven Joseph Sanchez.

Judgment affirmed. Reardon, J. We concur: Poche, Acting P.J., Hanlon, J. (Not for Publication.)

A078806 The People v. Richard Vasques Ramos.

The judgment is affirmed. Hanlon, J. We concur: Poche, Acting P.J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, September 12, 1997

DIVISION ONE

A075558 The People v. Dexter B. Brown.

Order Modifying Opinion and Denying Rehearing The Court: It is ordered that the opinion filed herein on August 26, 1997, be modified in the following particulars: (See Order) The judgment is affirmed. Dossee, J. We concur: Stein, Acting P.J., Swager, J.

DIVISION TWO

A079506 The Southland Corporation v. The Superior Court Of Sonoma County; Rico Pinola, R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

DIVISION FOUR

A075249 Conservatorship of the Person and Estate of Alberta V. Irvine.

The order is affirmed. Poche, J. We concur: Anderson, P.J., Hanlon, J. (Not for Publication.)

A077096 In re Lusiano G., A Minor.

The dispositional order is affirmed. Poche, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, September 15, 1997

DIVISION ONE

A076820 The People v. Demetrie Simmons.

Order Modifying Opinion By The Court: It is ordered that the unpublished opinion filed on August 21, 1997, be modified as follows: (See order) Subject to the People's motion to withdraw from the negotiated disposition, the judgment is affirmed. In all other respects, the opinion remains the same. This modification effects a change in the judgment. Strankman, P.J.

DIVISION TWO

A079274 Robert M. Polis v. The Superior Court Of Alameda County; The People Of The State Of California, R.P.I.

By The Court: The petition for writ of prohibition/stay is denied. Kline, P.J.

A079676 Coastside Habitat Coalition, et al. v. Prime Property Capital, Inc., et al.

The petition for writ of supersedeas/ stay is denied. Kline, P.J.

A079778 Admiral Insurance Company v. The Superior Court Of San Francisco County; Granite Management Corporation, R.P.I.

By The Court: The petition for writ of mandate is denied. Kline, P.J.

A079925 In re Richard Cross, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Monday, September 15, 1997 (continued)

A079926 Ralph A. Taylor v. The Superior Court Of Alameda County; The People Of The State Of California, R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

A079927 Ralph A. Taylor v. The Superior Court Of Alameda County; The People Of The State Of California, R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Kline, P.J.

DIVISION FOUR

A071851 Narendra Kumar, M.D. v. Jay Singh Gill et al.

The judgment in favor of Gill is affirmed. The judgment in favor of Berg is affirmed. Appellant to bear costs of both appeals. Anderson, P.J. We concur: Poche, J., Reardon, J. (Not for Publication.)

A075304 Estate of Jerome J. Garcia, Deceased.

The judgment is reversed. The probate court is ordered to enter an order, permitting Keelin to file a complaint, asserting her denied creditor's claim for child support without disinheriting her under the will. Estate to bear costs of appeal. Anderson, P.J. We concur: Poche, J., Hanlon, J. (Not for Publication.)

A076201 The People v. Patricia Ann Johnson.

Judgment affirmed. Reardon, J. We concur: Poche, Acting P.J., Hanlon, J. (Not for Publication.)

DIVISION FIVE

A076067 Leslie Mednick, a Minor, etc., et al.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, September 16, 1997

DIVISION ONE

A073743 Edgar S. Suter et al. v. City Of Lafayette et al.

The judgment is reversed insofar as it holds that section 8-609 is not preempted by state law. In all other respects the judgment is affirmed. The matter is remanded to the trial court to determine whether appellants are entitled to attorney's fees, and, if so, to award them reasonable fees for successfully challenging section 8-609. Each party will bear its own costs on appeal. Stein, J. We concur: Strankman, P.J., Dossee, J.
(Certified for Publication.)

A075492 Peninsula Yogurt v. 280 Metro Associates, et al.

The judgment is affirmed. Stein, Acting P.J. We concur: Dossee, J., Swager, J.
(Not for Publication.)

A079115 The People v. Richard Charles Franz.

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J., Swager, J.
(Not for Publication.)

DIVISION TWO

A071624 The People v. Stephen M. Henkins.

The judgment of guilt is affirmed. The finding that appellant's Washington robbery conviction includes all elements of a California robbery conviction is reversed and the cause is remanded for resentencing. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Tuesday, September 16, 1997

A073106 Neil Fitzpatrick, et al. v. Ted Hayes, et al.

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

A073877 The People v. Rufus Williams.

The judgment is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A074144 Robert Jones v. Dutra Construction.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Certified for Publication.)

A074181 Dew-Dew Financial, Inc. v. Port of Oakland.

The judgment is reversed and the cause is remanded to the trial court for a retrial as to the amount of damages to be awarded for that breach; the jury's special verdict finding a breach of the implied warranty of correctness is, however, affirmed. Each party shall bear its own costs on appeal. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A076918 Virgil Lamont Hamilton, a Minor.

We therefore reverse, concluding the trial court has no authority to grant the minor's request for an order nunc pro tunc, and we reinstate the order originally entered by the court. Each party to bear its own costs. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Certified for Publication.)

A079512 Michael A. Waul v. Appellate Department Of The Superior Court Of San Francisco County; Andrew August, et al R.P.I.

By The Court: The petition for writ of mandate/certiorari/prohibition is denied. Kline, P.J.

Tuesday, September 16, 1997 (continued)

DIVISION FOUR

A073187 Magdalena Pineda et al v. Tenjan, Inc., et al.

The judgment is affirmed. Reardon, J. We concur: Anderson, P.J., Hanlon, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION THREE

Tuesday, September 16, 1997

Court convened at 9:00 a.m. in its courtroom at Marathon Plaza, South Tower - Fourth Floor, 303 Second Street, San Francisco.
Present: Phelan P.J., Corrigan J., and J. Casados, Deputy Clerk

- A073940 In re the Marriage of Constance and Richard Jackanich.
Constance M. Jackanich,
v.
Richard F. Jackanich.
Cause called and argued by Paul F. Vorsatz, counsel for appellant,
and Robert A. Roth, counsel for respondent. Cause ordered
submitted.
- A073629 D.A. Fernandes et al.,
A074308 v.
First Indo American Bank.
Cause called and argued by Ronald Peck, counsel for appellants,
and David M. Wiseblood, counsel for respondent. Cause ordered
submitted.
- A076841 Darril Hudson,
v.
San Francisco Residential Rent Stabilization and Arbitration Board.
Cause called and argued by Brenda C. Keith, counsel for appellant.
No appearance by counsel for respondent or counsel for real party in
interest. Cause ordered submitted.

Tuesday, September 16, 1997 (continued)

DIVISION THREE

- A075810 Thomas Havstad et al.,
 v.
 Fidelity National Title Insurance Company et al
 Cause called and argued by Paul Crane, counsel for appellants, and
 Jeffrey H. Lowenthal, counsel for respondents. Cause ordered
 submitted.
- Justice Phelan left the bench. Justice Parrilli took her place on the
bench.
- A076411 Bettye Davis et al.,
 v.
 Metaclad Insulation Corporation.
 Cause called and argued by George Prince, counsel for appellants,
 and Sanford Rosen, counsel for respondents. Cause ordered
 submitted.
- A070065 Robert Wilson et al.,
 v.
 Metaclad Insulation Corporation.
 Cause called and argued by P. Richard Colombatto, counsel for
 appellant, and James Oberman, counsel for respondent. Cause argued
 submitted.

Court recessed until 1:30 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION THREE

Tuesday, September 16, 1997

Court convened at 1:30 p.m. in its courtroom at Marathon Plaza, South Tower-Fourth Floor, 303 Second Street, San Francisco. Present: Phelan, P.J., Parrilli, J., Walker, J., and C. Turner, Deputy Clerk.

- A075319 Leticia Contreras
 v.
 Mark Anderson et al.
 Cause called and argued by William Petzel, counsel for appellant,
 and Stephanie L. Benedict, counsel for respondent. Cause ordered
 submitted
- A074966 Amvest Mortgage Corporation,
 v.
 Jim Antt, Jr., et al.
 Cause called and argued by Michael Levine, counsel for appellant,
 and Deputy Attorney General, Jack Newman, counsel for respondents.
 Cause ordered submitted.
- A073922 Rosalene Burton et al.,
 v.
 A.F.M. Services, Inc., et al.
 Cause called and argued by John True, counsel for appellant, and
 Stuart Gerson, counsel for respondent. Cause ordered submitted.
- Justice Parrilli left the bench and Justice Corrigan took her place on
the bench.

Tuesday, September 16, 1997

DIVISION THREE

- A075096 Joann J. Rogers,
 v.
 J. Mark Rogers et al.
 Cause called and argued by Frank Debenedetto, counsel for appellant,
 and Stuart Gerson, counsel for respondents. Cause ordered submitted.
- Justice Walker left the bench and Justice Parrilli returned to the bench.
- A074572 Thomas J. Boyle,
 v.
 Marvin I. Barish.
 Cause called and argued by Steven Mayer, counsel for appellant, and
 Mary Moline, counsel for respondent. Cause ordered submitted.
- A075894 Burle Southard, et al.,
 v.
 Solano County et al.
 Cause called and argued by Stuart Flashman, counsel for appellant,
 and James W. Laughlin, counsel for respondent. Cause ordered
 submitted.

Court Adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, September 17, 1997

DIVISION TWO

A076422 Stephen Lloyd v. Donia Kate Green; Cynthia Trutna.

The matter is remanded to the superior court for further proceedings consistent with this opinion. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

DIVISION THREE

A072939 Dennis Hwang et al v. Jae Ku Han et al.

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A073252 Bodega Bay Concerned Citizens v. County of Sonoma; TFC Development Co., R.P.I.

For all the foregoing reasons, the judgment of the trial court is affirmed. The parties shall bear their own costs. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A073832 John L. Vargas et al. v. Vajihuddin Saiyed et al.

The orders are affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A075405 Tong Park v. County Of San Mateo et al.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Wednesday, September 17, 1997 (continued)

A075560 The People v. Kermit Marcus Harbison.

Affirmed. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A076981 The People v. Reginald D. Page.

Affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A077920 The People v. Luis Antonio Cortes Raya.

The judgment is affirmed. Corrigan, Acting P.J. We concur: Parrilli, J., walker, J. (Not for Publication.)

DIVISION FOUR

A075539 Abraham, Avi Lerner et al. Pillsbury, Madison & Sutro.

The judgment is affirmed. Costs are awarded to Pillsbury. Hanlon, J. We concur: Anderson, P.J., Reardon, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION TWO

Wednesday, September 17, 1997

Court met at 9:30 a.m. in its courtroom at 303 - 2nd Street,
Fourth Floor, San Francisco. Present: Kline, P.J., Lambden, J.,
Ruvolo, J. and S. Graham, Deputy Clerk.

- A074332 The People
 v.
 \$7,727.00 U. S. Currency
Cause called and argued by Pamela Underwood, Deputy District
Attorney, counsel for appellant and David Michael, counsel for
respondent. Cause ordered submitted.
- A072300 The People
 v.
 Alireza Shakoury Tabrizie
Cause called and argued LuAnn Steele, counsel for appellant and
Karl Mayer, Deputy Attorney General, counsel for respondent. Cause
Ordered submitted.
- A076022 Associated Builders and Contractors, Inc., et al.
 v.
 San Francisco Airports Commission, et al.
Cause called and argued by Mark Thierman, counsel for appellants
and Harold McElhinny and Victor Van Bourg, counsel for respondents.
Cause ordered submitted.
- A077819 Allen - Pacific, Ltd.
 v.
 Superior Court, San Francisco County
 Yee Yim Chan, et al.
Cause called and argued by Denise Blocker, counsel for petitioner and
Philip Lo, counsel for real parties in interest. Cause ordered Submitted.

Wednesday, September 17, 1997(continued)

A0 75888 The People
 v.
 Daniel Nardello
Cause called and argued (telephonically) by Gary Nelson, counsel for
appellant and Linda Murphy, Deputy Attorney General, counsel for
respondent. Cause ordered submitted.

At this point in the proceedings, Justice Ruvolo left the bench and
Justice Haerle joined the bench.

A074510 Estate of Elise N. Gridley, Deceased
 Michael A. Gridley, etc.
 v.
 Arnold S. Gridley
Cause called and argued by William Dillingham and James Mitchell,
counsel for appellant and Benjamin Winslow, counsel for respondent.
Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P.J., Haerle, J.,
Ruvolo, J. and S. Graham, Deputy Clerk.

A072105 Carol Goodrich
 v.
 First Baptist Church of Alameda, et al.
Cause called and argued by Howard Churchill, counsel for appellant and
Lori B. Feldman, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Kline left the bench and
Justice Lambden joined the bench.

A074566 In re the Marriage of
A076142 Nancy B. Cooper
 v.
 M. Armon Cooper
Cause called and argued by M. Armon Cooper, counsel for appellant and
Verna Adams, counsel for respondent. Causes ordered submitted.

Wednesday, September 17, 1997 (continued)

- A075301 Estate of Evangeline Stewart, Deceased
 Joyce S. Davis
 v.
 Carol Cecilia Brush
 Cause called and argued by David Harrison, counsel for appellant and
 Charles Way, counsel for respondent. Cause ordered submitted.
- A072255 Contra Costa Water District
 v.
 Vaquero Farms, Inc., et al.
 Cause called and argued by Andrew Faber, counsel for appellant and
 Frederick Jacobsen and Carl Nelson, counsel for respondents. Cause
 ordered submitted.
- A073787 John Creighton, et al.
 v.
 Board of Regents of University of California
 Cause called and argued by Andrew Sinclair, counsel for appellants and
 Linda Smith, counsel for respondent. Cause ordered submitted.
- A075166 The People
 v.
 Carol Cecilia Brush
 Cause called and argued by David Harrison, counsel for appellant and
 (telephonically) by Jeremy Friedlander, Deputy Attorney General,
 counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, September 18, 1997 at 9:30 a.m.

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

Thursday, September 18, 1997

A079190 In re Kayla S. a Minor.

Petitioner has failed to show she was deprived of her right to adequate representation of counsel. The challenged orders are supported by substantial evidence. (James B. v. Superior Court (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; Kowis v. Howard (1992) 3 Cal.4th 888, 894; Bay Development, v. Superior Court (1990) 50 Cal.3d 1012, 1024.) The section 366.26 hearing is set for October 20, 1997. Therefore, our decision is final in this court immediately. Swager, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

DIVISION THREE

A078014 American Economy Insurance Company v. The Superior Court Of Sonoma; Chris Zootis, R.P.I.

Let a peremptory writ of mandate issue compelling the Sonoma County Superior Court to vacate its order denying summary judgment and to reconsider AEIC's motion on the merits. Each party is to bear its own costs in this proceeding. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A075096 Jo Ann J. Rogers v. J. Mark Rogers.

The trial court erred in dismissing Jo Ann's second civil complaint on the ground that the action was barred by the doctrine of res judicata. we find no other basis upon which the court could have sustained Mark's demurrer without leave to amend and dismissed the action. We therefore reverse the judgment of dismissal and remand for further proceedings. We also find that sanctions were improperly awarded against Jo Ann, and reverse that order as well. Finally, we deny sanctions on appeal. Appellant shall recover costs of appeal. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

Thursday, September 18, 1997 (continued)

A075546 Giau Huynh, a Minor, etc. v. Eloise Anderson, as Director, etc.

The denial of the petition for writ of administrative mandate is affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A077449 The People, v. Ramiro J. Castro,.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A073597 The People, v. Walsten Raymond Blanton,.

The judgment is midified to award appellant 104 days of presentence conduct credit. (See People v. Bravo (1990) 219 Cal. App.3d 729, 732-736.) As modified, the judgment is affirmed. The trial is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A077201 The People, v. Joshua Isaac Wandrey,.

The judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

A074656 The People v. John e. Yi.

By The Court: The petition for rehearing is granted. Phelan, P.J.

A074108 San Francisco Bay Guardian v. City Of Richmond et al.

For all the foregoing reasons, the order of the trial court denying appellant's motion for attorney fees is reversed and the matter remanded for further proceedings consistent with this opinion. Costs and reasonable attorney fees on appeal shall be awarded to appellants in an amount to be determined by the trial court on remand. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A072001 The People v. Randall David Capps.

The judgment is affirmed. Reardon, J. We concur: Anderson, P.J., Hanlon, J.
(Not for Publication.)

A078895 The People v. Scott Edward Harris.

The judgment is affirmed. Poche, Acting P.J. We concur: Reardon, J., Hanlon, J.
(Not for Publication.)

A077645 The People v. Richard Warren Yarger.

The order of probation is affirmed. Poche, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

A075737 James R. Mcgettigan v. Bay Area Rapid Transit District.

Order The Court: The request of respondent Bay Area Rapid Transit District for publication of this court's August 22, 1997, opinion is granted and it is hereby ordered that said opinion be published in the Office Reporters. Hanlon, P.J.

A076162 People v. Forrest Floyd Fuller.

By The Court: On the motion of defendant, Forrest Fuller, supported by the affidavit of his appellate counsel the remittitur issued by this court on August 7, 1997, is hereby recalled on the ground of clerical error. (Cal. Rules of Court, rule 25, subd. (d); Southwestern Inv. Corp. v. City of L.A. (1952) 38 Cal.2d 623, 626.) The clerk of this court is then directed to refile without change our opinion. Hanlon, Acting P.J.

DIVISION FIVE

A074830 Glendale Federal Bank v. Hoffman Investment Company, et al.

The award of costs for expert witness fees is reversed. The damage award is reversed and remanded for recalculation based on the regional CPI. The judgment is otherwise affirmed. Each party to bear its own costs on appeal. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION TWO

September 18, 1997

The court convened in its courtroom at 9:30 a.m. at Marathon Plaza, South Tower, 303 Second Street, San Francisco, CA. Present: Kline, P.J., Haerle, J., Lambden, J. and I. Cespedes, Deputy Clerk.

- A073289 Don Delashaw et al.,
 v.
 Abex Corporation et al.
 Cause called and argued by James L. Oberman, counsel for appellant, and
 Steve Faires, counsel for respondent. Cause ordered submitted.
- A073283 William B. Geiger et al.,
 v.
 Abex Corporation et al.
 Cause called and argued by James L. Oberman, counsel for appellant, and
 Steven Faires, counsel for respondent. cause ordered submitted.
- A074992 M. Jeffrey Kallis
 v.
 Commercial Union Insurance Co., et al.
 Cause called and argued by Jess Millikan, counsel for appellant, and Steven
 Faires, counsel for respondent. Cause ordered submitted.
- A075579 Kimberly Reno,
 v.
 Mary Jo Baird.
 Cause called and argued by Philip Horowitz, counsel for appellant, and Eric
 Angstadt, counsel for respondent. cause ordered submitted.

Thursday, September 18, 1997(continued)

A075264 Michael w. Forrest et al.,
v.
John M. Baeza et al.
Cause called and argued by Dario De Ghetaldi, counsel for appellant, and
David McKim, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

The court reconvened in its courtroom at 1:30 p.m. at Marathon Plaza, South
Tower, 303 Second Street, San Francisco, CA Present: Kline, P.J., Haerle, J., Ruvolo, J.
and I. Cespedes, Deputy Clerk.

A074718 Carl Clinton Snyder.
v.
United States Fidelity & guaranty Co. et al.
Cause called and argued by Edward Suman, counsel for appellant, and
Peter Haley and Kathleen Courts, counsel for respondents. Cause ordered
submitted.

A074911 Thomasina Mayfield,
v.
Bay Area Air Quality Management District.
Cause called and argued by Michael Sorgen, counsel for appellant, and
Thomas Crawford, counsel for respondent. Cause ordered submitted.

A073141 Brian Weatherhill et al.,
v.
Todd Ellinwood et al.
Cause called and argued by Michael Moritarty, counsel for appellant, and
Harry Griffith and Jeremy Sugerman, counsels for respondents. Cause
ordered submitted.

A075971 Michael Ayala,
v.
Millie Yip.
Cause called and argued by John Aspelin, counsel for appellant, and Jerald
Williams, counsel for respondent. Cause ordered submitted.

Thursday, September 18, 1997 (continued)

- A075635 The People,
 v.
 C.L. Robinson.
- A076874 In re C.L. Robinson on Habeus Corpus.
 Cause called and argued by Kenneth Noel, counsel for appellant, and
 telephonically Christina Kuo, Deputy Attorney General, counsel for
 respondent. Cause ordered submitted.
- A071320 The People
 v.
 Jeffrey Warner.
 Cause called and no appearance on behalf of appellant, and Christina Kuo,
 Deputy Attorney General, counsel for respondent. Cause deferred until
 further notice.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, September 19, 1997

DIVISION ONE

A078506 In re Shawn W., a Juvenile The People v. Shawn W.,

The appellant having failed to file a brief after notice given under rule 17(a), California Rules of Court, the appeal is dismissed. Strankman, P.J.

A078558 The People v. Jeanette M. Lynch.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Dossee, (Not for Publication.)

DIVISION TWO

A076851 The People v. Amun Ray Hamed.

No meritorious issues to be argued. The judgment is affirmed..Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A071827 The People v. Brad Earl Crawford.

The judgment is reversed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

AO73726 The People v. Eric Phillips.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

AO74171 In re the Marriage of Ann Fraige and Richard Fraige.

The matter is remanded for reconsideration of the issue of spousal support consistent with the expressed herein. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Friday, September 19, 1997 (continued)

AO74293 Elbert L. Barr v. ACandS, Inc.

AO73961 Laurence Wills et al., v. Alta Building Materials Co. et al.,

AO76612 Darwyn Baesman v. Exxon Corporation.

In light of the foregoing we affirm the trial court judgments entered in favor of respondents. Costs on appeal are awarded to respondents. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Certified for Publication.)

DIVISION THREE

AO70065 Robert Winsow et al., v. Metaclad Insulation Corp.

The judgment is affirmed. Angie Winsow shall recover her costs on appeal. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)

AO73940 In re the Marriage of Constance M. Jackanich and Richard F. Jackanich.

The appeal from the memorandum decision is dismissed. The order denying Dr. Jackanich's motion to vacate is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

AO75810 Thomas and Laura Havstad v. Fidelity National Title Insurance Company.

Affirmed. Respondent to recover costs on appeal. Walker, J., We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

AO75894 Burle Southard et al., v. Solano County.

The order denying appellants's petition for a writ of mandate is reversed. The trial court shall enter an order directing the County to rescind its approval of the HNP. Appellants shall recover their costs. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

AO77058 Edward Buchanan v. City of Fremont et al.

The judgment is affirmed. Reardon, J. We concur: Poche, Acting P.J., Hanlon, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, September 19, 1997

DIVISION FIVE

AO76639 The People v. Jerry Lee Boster.

The judgment is reversed, and the matter remanded to allow the trial court to exercise its sentencing discretion as to the misdemeanor convictions. The judgment is otherwise affirmed. Haning, J. We concur: Peterson, P.J., Jones, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FOUR

Tuesday, September 23, 1997

Court convened at 9:30 a.m. at the University of San Francisco, Kendrick Hall (School of Law) in Room 101. Present: Poche, Acting P.J., Reardon, J. and Hanlon, J.; Chaning Hoo, Deputy Clerk; and CHP Officers E. Swanson and C Reese, Bailiffs.

- A076402 The People
 v.
 Michael Paul Montenegro
 Cause called. Barbara Michel argued on behalf of the appellant Montenegro. Rene Chacon argued on behalf of respondent. Cause submitted.
- A074602 Peter G. Staminson, etc. et al.
 v.
 Elizabeth Karnazes et al.
 Cause called. No appearance on behalf of the appellants. Counsel appeared on behalf of the respondents. Cause continued to another calendar.
- A076808 Katherine Wilkerson
 v.
 Showki Dughman et al.
 Cause called. Glen L. Moss argued on behalf of appellant Wilkerson. Steven Abern argued on behalf of respondents. Cause submitted.
- A075778 Albertson's Inc.
 v.
 The Home Insurance Co.
 Cause called. Dennis Cusack argued on behalf of appellant Albertson's. David H. Waters argued on behalf of respondent. Cause submitted.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday, September 25, 1997

Court convened at 9:30 a.m. in its Courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Peterson, P.J.; Haning, J.; Jones, J.; and Richard H. Sandvik, Deputy Clerk.

- A074278 Friends of Old Trees
v.
California Department of Forestry and Fire Protection
and
Bruce L. Van Alstyne
Cause called and argued by John H. Findley, counsel for
appellant, and by , counsel for responden.Cause ordered submitted.
- A077657 In Re Robert Earl Davis on Habeas Corpus.
Robert Earl Davis
v.
People of the State of California.
Cause called and argued by, counsel for appellant, and by, counsel for
respondent. Cause ordered submitted.
- A076559 Life Partners, Inc., et al.
v.
Chuck Quackenbush et al.
Cause called and argued by William K. Thomson, counsel for appellant,
and by Brian D. Seibel, counsel for respondent. Cause ordered submitted.

Thursday, September 25, 1997 (continued)

A077488 Chrisina Roberts et al.
v.
City of Fairfield.
Cause called and argued by , counsel for appellant, and by , counsel for
respon den. Cause ordered submitted.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, September 26, 1997

DIVISION ONE

A074578 The People v. Thomas Durand Young

The judgment is modified by striking the firearm use enhancement attached to the conviction for murder as charged in count 1, and by staying the sentence for conspiracy and the firearm use enhancement imposed for the conspiracy count. As so modified, the judgment is affirmed. Swager, J. We concur: Strankman, P.J., Dossee, J.
(Not for Publication.)

Friday, September 26, 1997 (continued)

DIVISION TWO

A078742 In re Keymah W. and Akilah W., Persons Coming Under the Juvenile Court Law.

A078743 Teresa M. et al. v. Superior Court of the City and County of San Francisco, San Francisco Department of Social Services.

The petition for an extraordinary writ is denied on the merits. (See Cal. Const., art. VI, 14; *Kowis v. Howard* (1992) 3 Cal. 4th 888, 894.) The request for a stay of the section 366.26 hearing, which is set for October 15, 1997, is denied and our decision is final in this court immediately. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A075569 The People v. Fernando Michael Roboostoff,

The decision of the trial court is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A074992 M. Jeffery Kallis v. Commercial Union Ins. Co. et al.

The order is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A073106 Neil Fitzpatrick, et al. v. Ted Hayes, et al.

By the Court: It is ordered that the opinion filed herein on September 16, 1997, be modified in the following particulars: (See order.) This modification does not effect a change in the judgment. Kline, P.J. (Certified for Publication.)

Friday, September 26, 1997 (continued)

DIVISION FOUR

A075609 S.T. Christopherson v. City of Pacifica

The judgment is affirmed. Reardon, J. We concur: Pochè, Acting P.J., Hanlon, J. (Not for Publication.)

**IN THE MATTER OF THE ASSIGNMENT OF THE HONORABLE
CARL WEST ANDERSON
TO SIT AS A JUSTICE OF THIS COURT**

BY THE COURT:

It is ordered that the assignment of the Honorable Carl West Anderson, retired Presiding Justice of the Court of Appeal, First Appellate District, Division Four, to sit as a Justice in Division Four, be spread upon the minutes in full. Pochè, Acting P.J.

DIVISION FIVE

**IN THE MATTER OF THE ASSIGNMENT OF THE HONORABLE
J. ANTHONY KLINE
TO SIT AS A JUSTICE OF THIS COURT**

BY THE COURT:

It is ordered that the assignment of the Honorable J. Anthony Kline, Presiding Justice of the Court of Appeal, First Appellate District, Division Two, to sit as a Justice in Division Five, be spread upon the minutes in full. Peterson, P.J.

Friday, September 26, 1997 (continued)

A076674 John V. Kearns et al. v. Bank of the West.

The judgment is affirmed. Costs are awarded to respondent. Peterson, P.J.
We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, September 29, 1997

DIVISION ONE

A076804 Victoria L. Bradshaw, as Labor Commissioner, etc. v. National Medical Care, Inc.

We accordingly conclude that a valid settlement offer was not made to appellant within the meaning of section 998. In the absence of other statutory grounds, the award of expert witness fees against appellant must be reversed. Costs on appeal are awarded to appellant. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

A074332 The People v. Property Subject to Disposition: \$7,727.00 U.S. Currency.

The judgment is reversed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

A076449 The People v. Michael Morris Aguilera

Finding no prejudice, we hold the error of the trial court to be harmless. Accordingly, the judgment is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A075759 The People v. Bernard Merfeld.

The judgment is affirmed. Anderson, J.* We concur: Reardon, Acting P.J. Hanlon, J. (Certified for Partial Publication.)

Monday, September 29, 1997 (continued)

A075515 Lisa Wagner v. Kathleen Crandall.

The appeal is dismissed as moot. Respondent to recover her costs on appeal.
Reardon, J. We concur: Pochè, Acting P.J., Hanlon, J. (Not for Publication.)

A074358 John E. Gregory v. Urban Housing Institute, Inc. et al.

The judgment is affirmed. Hanlon, J. We concur: Pochè, Acting P.J.
Reardon, J. (Not for Publication.)

A077030 The People v. David Edward Harris.

The trial court's order revoking probation in Case No. SC012422A on October 21, 1996 is annulled (*In re Quinn* (1988) 206 Cal.App.3d 179, 183), and the cause is remanded for resentencing. Hanlon, J. We concur: Pochè, Acting P.J., Reardon, J. (Not for Publication.)

A076808 Katherine Wilkerson v. Showki Dughman.

The summary judgment is reversed. Plaintiff shall recover her costs. Pochè, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

DIVISION FIVE

A076216 Robert Trumbull et al., v. Industrial Ladder Company, et al.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

A076674 John V. Kearns et al., v. Bank of the West.

The judgment is affirmed. Costs are awarded to respondent. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A075675 The People v. David Morgan

We affirm. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Monday, September 29, 1997

Court convened at 9:30 a.m. in its Courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Peterson, P.J.; Haning, J.; Jones, J.; Kline, P.J. by appointment of the State Judicial Counsel and Richard H. Sandvik, Deputy Clerk.

A077630 The People ex rel Daniel E. Lundgren as Attorney General
 v.
 Dennis Peron et al.

Cause called and argued by John Gordnier, Deputy Attorney General, counsel for appellant, and by J. David Nick, counsel for respondent. Cause ordered submitted.

A062766 The People
 v.
 Jerry Ledet et al.

Cause called and argued by David McNeil Morse, Philip Brooks and JoAnne Keller, counsel for appellants, and by Juliet B. Haley, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court adjourned at 11:15 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION ONE

Tuesday, September, 30 1997

A077760 The People v. Robert Lindsey

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Dossee, J.
(Not for Publication.)

A074760 Ray Reece et al. v. Regents of the University of California et al.

The judgment of the trial court is affirmed. Dossee, J. We concur:
Strankman, P.J., Stein, J. (Not for Publication.)

**A076942 In re Trisha T. et al., Persons Coming Under the Juvenile Court
Law.**

The order is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J.
(Not for Publication.)

A076049 The People v. Michael Golloian et al.

The judgments are affirmed. Stein, J. We concur: Strankman, P.J.
Swager, J. (Not for Publication.)

A075271 Marianne D. Ades v. Audrey Bell, Trustee et al.

The order appealed from is reversed. Costs are awarded to appellant..
Dossee, J. I concur: Swager, J. See Dissenting Opinion of Stein, Acting P.J.
(Not for Publication.)

Tuesday, September, 30 1997 (continued)

DIVISION TWO

A075700 The People v. Robert Gary Barnes

The judgment is therefore affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A076393 The People v. John Henry Lee et al.

The judgments are affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

A076952 The People v. Arturo Chaidez Alderette

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

DIVISION FOUR

A076412 Jose Silva et al. v. Union Pacific Railroad Company

The purported appeal by Russell Ryan is dismissed. The summary judgment is reversed. Plaintiffs Jose and Lupe Silva shall recover the cost s of their appeal, but not for any expenses incurred in connection with the purported appeal by Russell Ryan. Pochè, J. We concur: Anderson, P.J., Hanlon, J. (Not for Publication.)

A076456 The People v. Hector Watson

The judgment is affirmed. Pochè, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

Tuesday, September 30, 1997 (continued)

A074984 In re Samantha F. et al. Persons Coming Under the Juvenile Court Law.

Order modifying opinion and denying rehearing. It is ordered that the opinion filed herein on September 5, 1997, be modified in the following particular: (See order). The petition for rehearing is denied. There is no change in the judgment. Pochè, Acting P.J. (Not for Publication.)

A076210 The People v. Timothy Dale Parsons.

The judgment is affirmed. Reardon, J. We concur: Pochè, Acting P.J., Hanlon, J. (Not for Publication.)

A076689 Louis H. Rawson v. Tosco Refining Company.

The judgment is affirmed. Pochè, Acting P.J. We concur: Reardon, J. Hanlon, J. (Certified for Publication.)

A076047 The People v. Leo Gant

Judgment affirmed. Reardon, J. We concur: Pochè, Acting P.J., Hanlon, J. (Not for Publication.)

A075838 The People v. Seilusi L. Tufono

The judgement is reversed. Hanlon, J. I concur: Pochè, J. See dissenting opinion of Anderson, J. (Certified for Publication.)

A076566 Marin Safe Health Care Coalition v. Marin General Hospital Corporation et al.

For the foregoing reasons, the appeal is dismissed. The parties shall bear their own costs on appeal. Hanlon, J. We concur: Pochè, Acting P.J., Reardon, J. (Not for Publication.)

Tuesday, September 30, 1997 (continued)

DIVISION FIVE

A076291 Martha D. Murillo v. The Berkeley Unified School District

We affirm the superior court's order denying the requested preliminary injunction.
Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

TUESDAY, SEPTEMBER 30, 1997

Court convened at 9:00 a.m. in its courtroom at Marathon Plaza, South Tower - Fourth Floor, 303 Second Street, San Francisco.

Present: Phelan P.J., Corrigan J., Parrilli, J., and J. Casados, Deputy Clerk.

Justice Phelan announced that Justice Walker would not be present for the first few cases that had been set for oral argument. Should counsel not object to Justice Walker listening to the audio tape, oral argument would be heard. Should counsel wish to have Justice Walker present at oral argument, the matter would be continued.

A075743 California Automobile Assigned Risk Plan,

v.

National Surety Corporation.

Counsel had no objection to having Justice Walkers listen to the audio tape of oral argument. Cause called and argued by Gilbert Coolger, counsel for appellant California Automobile, and by Robert Julian, counsel for appellant National Surety. Cause ordered submitted.

A076679 Hoag Memorial Hospital Presbyterian,

v.

Kimberle Belshe, as Director of Department of Health Services.

Counsel had no objection to having Justice Walkers listen to the audio tape of oral argument. Cause called and argued by Thomas Weiss, counsel for appellant, and by Ralph Johnson, Deputy Attorney General.

Cause ordered submitted.

Justice Parrilli left the bench

Tuesday, September 30, 1997 (continued)

A073758 Ellen Vickery, et al.,

v.

Cinema 7, Inc., et al.

Counsel had no objection to having Justice Walkers listen to the audio tape of oral argument. Cause called and argued by Steven Finley, counsel for appellants, and by Lynn F. Faris, counsel for respondents. Cause ordered submitted.

Justice Walker took his place on the bench soon after the oral argument session in the above matter was being argued.

A071895 The People,

v.

John Raymond Arias.

Cause called and argued by J. Courtney Shevelson, counsel for appellants, and argued by teleconference by David Salmon, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A076653 Ann Dockery,

v.

David M. Rantz, et al.

Cause called and argued by teleconference by Clifford R. Wilson, counsel for appellant, and Louis Willett, counsel for respondents, appeared in person to argue. Cause ordered submitted.

A073551 Sabrina Voto,

v.

Walter Renner et al.

Cause called and argued by Gilbert Graham, counsel for appellant Sabrina Voto, and by S. Patrick Miller, counsel for appellants Walter Renner et al. Cause ordered submitted.

A074668 Robert J. Ramirez et al.,

v.

Acands, Inc.

Cause called and argued by James Oberman, counsel for appellant, and by Armon Cooper, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

TUESDAY, SEPTEMBER 30, 1997

Court reconvened at 1:30 p.m. in its courtroom at Marathon Plaza,
South Tower-Fourth Floor, 303 Second Street, San Francisco.
Present: Phelan P.J., Corrigan J., Parrilli, J., Walker, J., and C. Turner,
Deputy Clerk.

Justice Phelan announced that he would not be participating on Butler
v. Mutual Service Casualty case.

A076134 Larry Butler et al.
 v.
 Mutual Service Casualty Insurance Company et al.
Cause called and argued by Robert Knox, counsel for appellants,
and Gary Selvin, counsel for respondents.
Cause ordered submitted.
Justice Walker left the bench.

A073345 Robert Schumacher,
A075330 v.
 Jeanette Freeman et al.
Cause called and argued by Vicki Buchanan, counsel for appellant,
Arthur J. Lempert, counsel for respondent Robert Schumacher and
David Mark Hammerslough, counsel for respondent Grubb and Ellis.
Cause ordered submitted.

A063172 Dorene L. Musilli,
 v.
 Alioto & Alioto et al.
Cause called and argued by Paul C. Jess, counsel for appellant,
and Margaret Weems, counsel for respondents
Cause ordered submitted.

Court Adjourned

